SECTION V

In Section V, the Working Group explains in further detail the four components of the National Materials Program recommended in Section IV. These components are most effectively incorporated in the Alliance Option, but should be considered regardless of the option or combination of options chosen for a National Materials Program.

- **Use of Centers of Expertise**
- **Seek Authority to Regulate NARM**
- **Maintain an Information Infrastructure**
- **Create a Standing Compatibility Committee**

Use Centers of Expertise

Using Centers of Expertise optimizes resources.

Centers of Expertise

Regardless of whether or not the Alliance Option is adopted, the Centers of Expertise concept should be implemented in a National Materials Program.

Centers of Expertise

Centers of Expertise are an integral component of the recommended Alliance Option for the National Materials Program. The Centers of Expertise concept optimizes resources of federal, state, professional, and industrial organizations and reduces duplicate efforts.

Some Agreement States and NRC regions have, over time, developed considerable experience and expertise with specific uses of radioactive materials. Examples of areas of expertise include well logging, industrial radiography, positron emission tomography, and intravascular brachytherapy. Agreement States and NRC regions that have developed expertise in specific uses should be identified and used as a resource by other regulatory programs. These Centers of Expertise may change over time as others develop expertise.

A specific process for identifying and utilizing Centers of Expertise should be developed in the implementation plan for the National Materials Program.

Seek Authority to Regulate NARM

NRC should seek legislative authority to regulate discrete sources of NARM.

Inconsistency in NARM Regulation

A fragmented regulatory scheme treats similar radioactive materials (and in some cases the same radioisotope) differently based on how the material is produced. Wide disparities in the way materials are regulated exist among states, although the risks of the materials are the same. This is inconsistent with the concept and goals of a National Materials Program.

Regulation of NARM

The Working Group recommends that the NRC seek legislative authority to regulate discrete sources of NARM. This does not include diffuse naturally-occurring radioactive material.

Variations in Regulation of NARM

The Working Group recognizes that radioactive material is not regulated consistently on a national basis. NARM oversight varies among states, and in some states, the oversight is not based on risk.

Some non-Agreement States license and inspect NARM similarly to the oversight provided by NRC and Agreement States.

Some non-Agreement States only register NARM sources and may not conduct any inspections.

NRC regulation of NARM would meet three of NRC's strategic goals by:

- maintaining public health and safety through establishment of a regulatory oversight framework that ensures that materials licensees continue to conduct activities involving the use of radioactive materials in a safe manner;
- improving the effectiveness of regulatory programs nationwide; and
- reducing unnecessary regulatory burden.

The Working Group understands that NRC is currently looking into the issue of regulation of NARM, and believes in an ideal situation, the AEA would authorize the regulation of all NARM. However, it may be more practical for NRC to seek authority for only discrete NARM sources.

Seek Authority to Regulate NARM - cont'd

Regulation of NARM by NRC would require startup resources and ongoing costs, both believed to be minor in relation to the overall program.

If granted statutory authority, NRC could begin to regulate NARM without significant change to existing rules and guidance.

The Chair of the OAS informally asked Agreement State and non-Agreement State managers and staff about their opinions on NRC licensing NARM.

Of those program managers who responded, most favored regulation of NARM by NRC, but were concerned about compatibility

Resources
The Working Group considered resources when determining the relative value of regulating NARM. See Appendix C. Regulation of NARM by NRC would require startup resources, but the Working Group does not believe these will be significant. The ongoing cost of regulating discrete NARM is predicted to be minor in relation to the overall program, as is the case in Agreement States.

Impacts on NRC
The Working Group believes regulating NARM will have limited impacts on NRC.

NRC for the most part already licenses the same type of activities with AEA materials. For uses of radioactive materials for which NRC does not have a history, they can look to the Centers of Expertise – those states that already license NARM.

Cost Savings
There would be a potential resource saving for some licensees and for some non-Agreement States, as most NARM licensees also have an NRC license. Elimination of dual regulation would result in savings to the licensee and to the state. A consequence of including NARM in the materials regulated by NRC could be the dissolution of some non-Agreement State radioactive materials programs unless the option encouraged or forced non-Agreement States to seek Agreement State status.

NARM in the National Materials Program
The Working Group recognizes that not all states will want NRC to seek this new authority. However, a true National Materials Program must be based on risk and must maintain safety, improve effectiveness, and reduce regulatory burdens. A nationally uniform process that regulates similar risks from similar radioactive materials in a consistent manner will best assure this.

Maintain an Information Infrastructure

Mechanisms for an Information Infrastructure and a new Working Group are recommended.

The National Materials Program Working Group recommends that a new Working Group be established. The task of this group would be to further define the Information Infrastructure necessary to support the existing nationwide regulatory structure program or any option or combination of options the Commission chooses.

Create an Information Infrastructure that would consolidate resources, reduce duplication, promote Centers of Expertise, and provide alternative resources to stakeholders in a timely manner.

Develop and share on-line information and resources essential to a National Materials Program.

Information Infrastructure
An Information Infrastructure, or clearinghouse, could include rules, guidance documents, forms, industry and professional standards, incidents and events (for tracking performance and identification of generic safety issues), numbers and types of licensees for regulatory agencies, sealed source and device registration sheets, escalated enforcement actions, certification, personnel directory information, services (waste brokers, recycling), program information, training, etc. The distribution can be either active, as in visiting a website, or passive, as when information is automatically distributed to users.

On-Line Resources
Many regulatory agencies have statutes, rules, and other information on-line. Some states and NRC also have policies, procedures, and guidance on-line. CRCPD maintains lists of contacts for a wide variety of radiological assistance and technical information at its website. Professional organizations maintain on-line resources. NRC also maintains several specialized national databases on-line, such as the Nuclear Materials Events Database and the Sealed Source & Device Registry. Over time, experienced stakeholders have learned what information is available and where to locate it. No on-line mechanism exists to make it easy to identify, collect, access, or distribute relevant information from the many sources.

The Working Group suggests that NRC should continue to maintain and improve current on-line resources and should seek methods and technology to include, link to, or search other on-line resources and information. State radiation control programs should also link to the NRC's web pages.

The working group believes that information requirements should be determined by consensus, with the NRC serving as a center of activity in the area of information distribution. NRC has demonstrated experience in developing and maintaining this vast amount of information on-line.

Create a Standing Compatibility Committee

A Standing Compatibility Committee will improve the compatibility determination process.

Recommendations:

- **A Standing Compatibility Committee should consist of individuals representing both NRC and Agreement States.**

- **Individuals should be specifically trained in making compatibility determinations based on the principles of the 1997 Compatibility Working Group.**

- **In order to maintain objectivity, Committee members should not be directly involved in the development of the particular rule being evaluated for compatibility designations.**

- **The Standing Compatibility Committee should establish the recommended compatibility levels using Management Directive 5.9.**

- **Committee recommendations for each rule should be presented to the Commission when the rule is presented.**

Standing Compatibility Committee

A Standing Compatibility Committee could enhance the existing compatibility determination process. Such a committee offers these benefits:

- Membership would represent a broader range of input by including others in addition to NRC staff.
- Membership would provide consistency in designating compatibility levels across the range of rules.

This concept of a Standing Compatibility Committee is consistent with the objectives of a National Materials Program.

Current Process

NRC determines compatibility using Management Directive 5.9, adopted in February 1998. This directive outlines the process by which compatibility recommendations are currently made. Unless statutes are changed, the Commission will continue to have responsibility to establish compatibility for rules. Beginning in 1995, a Compatibility Working Group of Agreement State and NRC representatives evaluated the level of compatibility of NRC rules. Most states believed the results of this compatibility review were valuable. However, since that time, NRC has been making compatibility decisions, with some disagreement between NRC and states resulting.

Create a Standing Compatibility Committee - cont'd

A Standing Compatibility Committee will provide a broader range of input, consistency in designating compatibility levels, and increased objectivity.

Criteria exist for determining compatibility requirements. However, states believe that the criteria have been misapplied in some instances. A Standing Compatibility Committee could remedy this situation.

Under the Alliance Option, rules may be developed by Centers of Expertise. These centers may consist primarily or solely of Agreement State and/or non-Agreement State staff members. A Standing Compatibility Committee would provide consistency in compatibility determinations.

Disagreements Concerning Compatibility

Some states believe the understandings and the intent of the compatibility review group have not been strictly followed. They believe that NRC has inadvertently misapplied the intent of Management Directive 5.9. This could occur, for instance, if an individual who drafted a rule elevated the compatibility level for that rule beyond the level an objective and impartial reviewer would designate.

Some in the Agreement States believe the misapplications of the intent of Management Directive 5.9 are demonstrated by the excessive use of compatibility category H&S (Health and Safety). A number of rules that otherwise have a compatibility category of D have been also designated as H&S. This designation then requires the Agreement States to adopt a rule they might otherwise not have a need to adopt. The following rules in 10 CFR are offered as examples:

- 20.1101(b)
- 20.1501(a)(2)(i)
- 20.1502
- 20.1906(d)

Benefits

A standing compatibility committee would serve to minimize disagreement and would optimize resources by providing consistency.